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8674**REMARKS**

Claims 1-14 stand rejected under 35 U.S.C. §103(a) as being unpatentable over Bentley in view of Audett or Prejean. The Examiner admits that Bentley does not teach the use of an ethylene terpolymer with an organosilicone functional group that adheres the sheet stock 92 to the metal sheet blank 72. The Examiner asserts that Audett suggests a water-curable adhesive including a copolymer of ethylene and hydro-carbonyl esters of  $\alpha$ ,  $\beta$ -ethylenically unsaturated carboxylic acid grafted with a silane monomer, and Prejean suggests an ethylene terpolymer hot melt adhesive. The Examiner contends it would be obvious to employ an ethylene terpolymer to adhere the film to the heat exchanger of Bentley because of either Audett or Prejean, and therefore claims 1-14 are obvious. Applicant respectfully disagrees.

The Examiner argues it would have been obvious to one having ordinary skill in the art to provide the heat exchanger of Bentley "with a water-curable ethylene terpolymer hot melt adhesive" because of Audett or Prejean. This is clearly a use of hindsight reconstruction. It is impermissible to engage in hindsight reconstruction of the claimed invention, using Applicant's structure as a template and selecting elements from the references to fill the gaps. The references themselves must provide some teaching whereby the Applicant's combination would have been obvious. In re Gorman, 933 F.2d 982, 986, 18USPQ2d 1885, 1888 (Fed. Cir. 1991). One of ordinary skill in the art would have found no reason, suggestion, or incentive for attempting to combine these references other than through the luxury of hindsight accorded one who first viewed Applicant's disclosure. This is not a proper basis for a rejection under 35 U.S.C. 103.

The mere fact that a reference could be modified does not make such a modification obvious unless the prior art suggests the desirability of doing so. There is no teaching, suggestion, or incentive that would have led one of ordinary skill in the art to modify Bentley as proposed by the Examiner. Bentley only relates to the use of a layer of corrosion resistant polymer on a heat exchanger to prevent corrosion and does not relate to an adhesive used to adhere the corrosion resistant polymer to the heat exchanger. Bentley does not disclose that the adhesion of the polymer layer to the corrosion heat exchanger was in any way deficient. Nothing would lead one of ordinary skill in the art to believe that Bentley was in need of modification.

Audett and Prejean also do not disclose or suggest using ethylene terpolymer to adhere a film to a heat exchanger. Prejean only generally teaches an ethylene terpolymer, its properties,

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and a method of making. Audett only generally teaches a copolymer of ethylene and hydrocarbyl esters of  $\alpha$ ,  $\beta$ -ethylenically unsaturated carboxylic acid grafted with a silane monomer. Neither Augett or Prejean disclose, suggest or teach using ethylene terpolymer as an adhesive on a heat exchanger. There simply is no suggestion in the references, or in the prior art as a whole, that suggests the desirability of making the combination, and claims 1-14 are not obvious.

Thus, claims 1-14 are in condition for allowance. Applicant has filed a Notice of Appeal with this Request for Reconsideration. No additional fees are seen to be required. If any additional fees are due, however, the Commissioner is authorized to charge Deposit Account No. 50-1482, in the name of Carlson, Gaskey & Olds, P.C., for any additional fees or credit the account for any overpayment. Therefore, favorable reconsideration and allowance of this application is respectfully requested.

Respectfully Submitted,

CARLSON, GASKEY & OLDS, P.C.

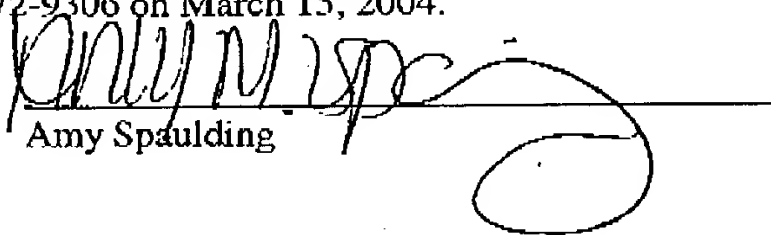


Karin H. Butchko  
Registration No. 45,864  
Attorneys for Applicant  
400 West Maple Road, Suite 350  
Birmingham, Michigan 48009  
(248) 988-8360

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CERTIFICATE OF FACSIMILE

I hereby certify that this correspondence is being facsimile transmitted to the United States Patent and Trademark Office, 703-872-9306 on March 15, 2004.



Amy Spaulding

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